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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/815,599 | 04/01/2004 | Tetsuya Tada | OPS C-643 | 9684 |
| 23474 | 7590 | 01/10/2005 | EXAMINER | |
| FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1699 | | | NICOLAS, FREDERICK C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3754 | |

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|----------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/815,599 | TADA, TETSUYA <i>CR</i> |
| | Examiner | Art Unit |
| | Frederick C. Nicolas | 3754 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9, 12 and 15 is/are rejected.
- 7) Claim(s) 10, 11, 13 and 14 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/2/2004.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Preliminary Amendment

1. The preliminary amendment filed on 4/1/2004 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I- As to claim 6, line 6, it is unclear by what is meant by the claimed limitation "the same side". Further, it appears that the claimed limitation "the same side" lacks proper antecedent basis in the claim.

II- As to claim 12, line 5, the phrase "the plate-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7,9,15 are rejected under 35 U.S.C. 102(b) as being anticipated by Reich et al. 5,249,713.

Reich et al. disclose an auxiliary cover (134) for a pump dispenser as seen in Figure 1, which is attached on the pump dispenser for discharging liquid in a vessel (122) with an upward and a downward direction of a nozzle head (130), the cover having a function of pressing down the nozzle head with a lever portion (158), characterized in that the cover is attached on a cap of the pump dispenser as seen in Figures 4-5, a projection (170), a base (136), a hinge portion (160), a notch (174), notch (166).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reich et al. 5,249,713 in view of Luedtke 4,278,187.

Reich et al. have taught all the features of the claimed invention except that a separable stopper is provided for preventing the rotation of the lever portion between the base portion and the lever portion. Luedtke shows a lever (48), a base portion (32), a separable stopper (70,76) is provided for preventing the rotation of the lever portion between the base portion and the lever portion (col. 3, ll. 1-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the base and the lever of Reich et al. by providing Luedtke's separable stopper (70,76) onto the base and the lever of Reich et al. as such, in order to provide a locking mechanism for the lever.

Allowable Subject Matter

8. Claims 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Renault 5,431,313, Nozawa 4,264,037, Reyss 5,242,090, Edman et al. 4,186,855, Vieler et al. 4,124,148, Renault 5,370,281, Meenan 5,316,185, Beres et al. 3,395,838, Debard 4,053,086, Irwin et al. 5,839,616, Brooks 3,478,935, Nozawa et al. 4,141,471, Clanet et al. 5,624,055, Beard 4,077,549, Beard 4,077,548 and Knox et al. 4,424,919 disclose other types of auxiliary cover.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
January 5, 2005

 1/5/05

Frederick C. Nicolas
Patent Examiner
Art Unit 3754